

CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 194

Citations Affected: IC 31-34-1-3; IC 31-34-12-4.5.

Synopsis: CHINS. Conference committee report for ESB 0194. Provides that a child is a child in need of services (CHINS) if the child: (1) lives in the same household as another child who is the victim of certain sex offenses; (2) lives in the same household as the adult who committed the sex offense; (3) needs care, treatment, or rehabilitation that the child is not receiving and that is unlikely to be provided or accepted without the coercive intervention of the court; and (4) has been placed in or has been considered for placement in an informal adjustment program. Establishes a rebuttable presumption that a child is a CHINS if: (1) another child in the same household has been the victim of a sex offense; (2) the offense was committed by an adult living in the household; and (3) the offense resulted in the conviction of the adult or a CHINS adjudication concerning the child victim. Provides that a child presumed to be a CHINS may not be taken into custody unless a court finds cause following a hearing. Establishes the statewide child fatality review committee to review the deaths of children who die suddenly or unexpectedly. Makes the testimony of a committee member inadmissible in certain proceedings. Requires a juvenile court to order a child and the child's parent into counseling if the child is found to have committed a delinquent act that would be one of certain types of sex crimes if committed by an adult. Provides that records of state agencies regarding the death of a child who died as a result of abuse, abandonment, or neglect are not confidential. **(This conference committee report: Removes the statewide child fatality review committee. Eliminates the provision requiring a juvenile court to order counseling under certain situations. Removes a provision relating to the records of state agencies.)**

Effective: July 1, 2004.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 194 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert:
- 2 SECTION 1. IC 31-34-1-3 IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2004]: Sec. 3. **(a)** A child is a child in need of
- 4 services if, before the child becomes eighteen (18) years of age:
- 5 (1) the child is the victim of a sex offense under:
- 6 (A) IC 35-42-4-1;
- 7 (B) IC 35-42-4-2;
- 8 (C) IC 35-42-4-3;
- 9 (D) IC 35-42-4-4;
- 10 (E) IC 35-42-4-7;
- 11 (F) IC 35-42-4-9;
- 12 (G) IC 35-45-4-1;
- 13 (H) IC 35-45-4-2; ~~or~~
- 14 (I) IC 35-46-1-3; ~~and or~~
- 15 **(J) the law of another jurisdiction, including a military**
- 16 **court, that is substantially equivalent to any of the offenses**
- 17 **listed in clauses (A) through (I); and**
- 18 (2) the child needs care, treatment, or rehabilitation that: ~~the child:~~
- 19 (A) **the child** is not receiving; and
- 20 (B) is unlikely to be provided or accepted without the coercive

intervention of the court.

(b) A child is a child in need of services if, before the child becomes eighteen (18) years of age:

(1) the child lives in the same household as another child who is the victim of a sex offense under:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2;

(C) IC 35-42-4-3;

(D) IC 35-42-4-4;

(E) IC 35-42-4-7;

(F) IC 35-42-4-9;

(G) IC 35-45-4-1;

(H) IC 35-45-4-2;

(I) IC 35-46-1-3; or

(J) the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (I);

(2) the child lives in the same household as the adult who committed the sex offense under subdivision (1) and the sex offense resulted in a conviction or a judgment under IC 31-34-11-2;

(3) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court; and

(4) a caseworker assigned to provide services to the child:

(A) places the child in a program of informal adjustment or other family or rehabilitative services based upon the existence of the circumstances described in subdivisions (1) and (2) and the assigned caseworker subsequently determines further intervention is necessary; or

(B) determines that a program of informal adjustment or other family or rehabilitative services is inappropriate.

SECTION 2. IC 31-34-12-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4.5. (a) There is a rebuttable presumption that a child is a child in need of services if the state establishes that:

(1) another child in the same household is the victim of a sex offense described in IC 31-34-1-3; and

(2) the sex offense described in IC 31-34-1-3:

(A) was committed by an adult who lives in the household with the child; and

(B) resulted in a conviction of the adult or a judgment under IC 31-34-11-2 as it relates to the child against whom the sex offense was committed.

(b) The following may not be used as grounds to rebut the presumption under subsection (a):

1 **(1) The child who is the victim of the sex offense described in**
2 **IC 31-34-1-3 is not genetically related to the adult who**
3 **committed the act, but the child presumed to be the child in**
4 **need of services under this section is genetically related to the**
5 **adult who committed the act.**

6 **(2) The child who is the victim of the sex offense described in**
7 **IC 31-34-1-3 differs in age from the child presumed to be the**
8 **child in need of services under this section.**

9 **(c) This section does not affect the ability to take a child into**
10 **custody or emergency custody under IC 31-34-2 if the act of**
11 **taking the child into custody or emergency custody is not based**
12 **upon a presumption established under this section. However, if**
13 **the presumption established under this section is the sole basis for**
14 **taking a child into custody or emergency custody under**
15 **IC 31-34-2, the court first must find cause to take the child into**
16 **custody or emergency custody following a hearing in which the**
17 **parent, guardian, or custodian of the child is accorded the rights**
18 **described in IC 31-34-4-6(a)(2) through IC 31-34-4-6(a)(5).**

(Reference is to ESB 194 as printed February 20, 2004.)

Conference Committee Report
on
Engrossed Senate Bill 194

Signed by:

Senator Dillon
Chairperson

Representative Orentlicher

Senator Broden

Representative Ruppel

Senate Conferees

House Conferees